



SUPERIOR COURT OF JUSTICE

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.:

DATE: 23-AUG-2023

CV-23-00703292-00CL; CV-23-00703933-00CL

NO. ON LIST: 1,2

TITLE OF PROCEEDING:

WAYGAR CAPITAL INC., AS AGENT FOR NINEPOINT CANADIAN SENIOR DEBT MASTER FUND L.P. v. QUALITY RUGS OF CANADA LIMITED et al.

-and-

QUALITY RUGS OF CANADA LIMITED v. WAYGAR CAPITAL INC., AS AGENT FOR NINEPOINT CANADIAN SENIOR DEBT MASTER FUND L.P.

BEFORE: JUSTICE PENNY

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

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For Defendant, Respondent, Responding Party:

Name of Person Appearing	Name of Party	Contact Info
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For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
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ENDORSEMENT OF JUSTICE PENNY:

- [1] On August 4, 2023 I made a somewhat unusual interim order in the face of two competing applications under the CCAA, one by the senior secured creditor and one by the debtor. The interim order imposes a stay and certain constraints on the debtor's operations but none of the detail and balance of the Model Initial Order approved for use on the Commercial List. The purpose of the interim order was to permit the parties time to negotiate an appropriate solution for the path forward for this debtor.
- [2] Initial discussions took time to gain traction. But, on the morning of the initial return date, August 18, I was advised that the parties had an agreement in principle and required a few days to reduce it to writing and resolve more details. I extended the interim order to today.
- [3] Yesterday afternoon, I was advised that while ongoing discussions were productive, the parties still required more time to bring the negotiations to a conclusion. It was proposed to adjourn the hearing until Friday, August 25.
- [4] As time goes by, more stakeholders have concerns. All stakeholders need to know where they stand so that they may take appropriate action. The existing "limbo" of the debtor under the interim order cannot continue indefinitely. In addition, the cash flow situation of the debtor is dire and additional financing is required, which will only be available under the terms of a further court order.
- [5] I have agreed to and order a further adjournment of this matter to a virtual hearing on August 25, 2023 commencing at 10:00 AM. At that time, the principal parties to the competing applications will either present a negotiated solution or be prepared to argue the matter.
- [6] As any order made on August 25 will be, notwithstanding the unusual course taken by these proceedings to date, an *initial order* with a "comeback" clause not to exceed a further ten days. Only those matters absolutely necessary for resolution on August 25 will be dealt with. Any other matters shall await the comeback hearing which, as noted, under the legislation must be within a further 10 days. All that said, the more that can be done to streamline and schedule issues in an orderly way, the better.

- [7] The form of interim order already issued shall continue until August 25. Although it was proposed to amend that order to add more features, I rejected that request. The parties need to get to the initial order stage in order to enjoy the protections of an initial order.
- [8] Adjourned to a virtual hearing on August 25, 2023 before me. Order to issue in the form signed by me this day.

Penny J.